

From: Kris Spiesz
To: Microsoft ATR
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Subject: Microsoft Settlement

Findings of Law

The findings of Fact and Law were untouched by the appeal. As such, why does the settlement in the initial whereas section state that "this Final Judgement does not constitute any admission by any party regarding any issue of fact or law."? This feels like giving up much of what has been gained.

Open Source

Several sections (III.I.1, III.I.3) of the Settlement state that APIs will be available to other companies that can show a business case for needing it. Open Source Software, by its nature, is not a business and thus cannot show a business case for anything. Note that Microsoft has declared to the press that currently the most important competitor to Microsoft is Linux, an Open Source product. SAMBA, an Open Source interoperability product, would also have problems under this settlement.

Security Loophole

Section III.J.1 of the settlement entitles Microsoft to not make available its APIs if a security concern can be raised. As such, given Microsoft's past historical behavior, Microsoft is likely to put just enough security between items to ensure that any APIsw Microsoft shares are useless without the security APIs not available to Microsoft's competitors.

Enforcement.

There is no clause for enforcement in the settlement. If Microsoft violates the settlement a new court case will need to be started to do anything about enforcement. Historically this takes three to seven years, thus is likely to run beyond expected termination.

Termination

Is five years long enough for this settlement to run. Given the past history of litigation between Microsoft and the US Government, Digital Research, etc.; I expect that five years is not nearly long enough. Twenty would be better.

CC: attorney.general@state.mn.us@inetgw